

## General Provisions

## CHAPTER 465

## RIGHTS, POWERS AND DUTIES; MUNICIPALITIES

465.01	Right of eminent domain.	465.38	Notice of appraisalment; confirmation or annulment.
465.013	Property or easements not acquired by prescription.	465.39	Award; appeal.
465.02	Lands deeded to state; modification of conditions.	465.40	Vesture of title.
465.025	Gifts of land to state.	465.41	Removal of buildings.
465.03	Gifts to municipalities.	465.42	Appeal; objections; notice; record.
465.035	Public corporation, conveyance or lease of land.	465.43	Hearing; appraisers; award; appeal.
465.036	Gifts, hospitals.	465.44	Time of payment.
465.04	Acceptance of gifts.	465.45	Notice of pendency; persons affected.
465.05	Tax levy to pay interest.	465.46	Award and assessment, how certified; assessment, how enforced.
465.13	Judgment against municipality; payment.	465.47	Duty of city.
465.14	Tax levy; execution.	465.48	Powers and duties of council; penalties.
465.15	Cities may acquire exempt property.	465.49	Parking lake shores; donations; contracts for water and ice.
465.16	Right of eminent domain.	465.50	Observance of Memorial Day.
465.17	May issue bonds.	465.54	May pay expenses from general fund of statutory city.
465.18	State's ownership of bed of navigable river.	465.58	League of cities.
465.19	Change of channel within and at cost of city; city's ownership.	465.681	Cities of first class, flood control.
465.20	Application.	465.69	Training of school safety patrol members.
465.26	Diversion of unnavigable streams; raising waters of lakes.	465.70	Television signal distribution systems; home rule charter third and fourth class cities and statutory cities.
465.27	Ordinance; survey and map.	465.71	Installment and lease purchases; cities; counties; school districts.
465.28	Lands; how acquired.	465.72	Severance pay.
465.29	Condemnation; special assessments.	465.721	Funding.
465.30	Ordinance; appraisers.	465.73	Town halls; fire halls or equipment; direct loans to political subdivisions.
465.31	Oath.	465.74	Authorization to operate district heating systems.
465.32	Notice of meeting.	465.75	Regulation of vehicle towers limited.
465.33	Mailing notices.	465.76	Legal counsel; reimbursement.
465.34	Meeting of appraisers; damages and benefits.	465.77	Regulation of drilling to protect mined underground space development.
465.35	Buildings.		
465.36	Different owners or interests.		
465.37	Report.		

NOTE: For special laws relating to specific political subdivisions, see Table 1, Vol. 10.

**465.01 RIGHT OF EMINENT DOMAIN.**

All cities may exercise the right of eminent domain for the purpose of acquiring private property within or without the corporate limits thereof for any purpose for which it is authorized by law to take or hold the same by purchase or gift and may exercise the right of eminent domain for the purpose of acquiring a right of way for sewerage or drainage purposes and an outlet for sewerage or drainage within or without the corporate limits thereof. The procedure in the event of condemnation shall be that prescribed by chapter 117, or that prescribed by the charter of such city.

**History:** (1829) RL s 766; 1917 c 424 s 1; 1973 c 123 art 5 s 7

**465.013 PROPERTY OR EASEMENTS NOT ACQUIRED BY PRESCRIPTION.**

No city of the first class or any board or department thereof shall hereafter obtain or acquire title to real property or any right or easement therein by prescription or adverse possession. This section shall not be construed to prevent the adjudication hereafter of title in such city in cases where lapse of time and adverse possession have already ripened into title but no adjudication thereof has yet been had.

**History:** 1943 c 582 s 1,2

**465.02 LANDS DEEDED TO STATE; MODIFICATION OF CONDITIONS.**

Any city in this state, that has heretofore deeded, or may hereafter deed, to the state of Minnesota any lands to be used by the state for a public purpose in such deed stated, conditioned, among other things, that such lands shall be so used by the state for a period of time, which time exceeds 20 years, and in case such use is not made thereof for the stated time, then such land shall revert to such city, may at any time after 15 years from the date of the deed by a majority vote of the city council at any regular meeting thereof, or at a properly called special meeting of such council, pass a resolution or enact an ordinance modifying the terms and conditions above specified and permit the noncompliance by the state with such terms and conditions as originally made, either wholly or in part, and such resolution so adopted shall operate as a release of the state from such terms and conditions to the extent provided in such resolution and the action by the state in conformity with such resolution shall not in any way cause a reversion to such city of the lands or any part thereof or interest therein.

**History:** (1930) 1911 c 182 s 1; 1973 c 123 art 5 s 7

**465.025 GIFTS OF LAND TO STATE.**

Any municipal corporation in the state of Minnesota, owning lands in fee simple and not restricted by the grant, which are no longer necessary for municipal purposes, may convey said lands to the state of Minnesota without consideration when duly authorized by the governing body of said municipal corporation and the governor is authorized to accept such conveyances in behalf of the state.

**History:** 1947 c 8 s 1

**465.026 [Repealed, 1987 c 291 s 244]****465.03 GIFTS TO MUNICIPALITIES.**

Any city, county, school district or town may accept a grant or devise of real or personal property and maintain such property for the benefit of its citizens in accordance with the terms prescribed by the donor. Nothing herein shall authorize such acceptance or use for religious or sectarian purposes. Every such acceptance shall be by resolution of the governing body adopted by a two-thirds majority of its members, expressing such terms in full.

**History:** (1830) RL s 767; 1913 c 319 s 1; 1949 c 294 s 1; 1973 c 123 art 5 s 7

**465.035 PUBLIC CORPORATION, CONVEYANCE OR LEASE OF LAND.**

Any county, town, city or other public corporation may lease or convey its lands for a nominal consideration, without consideration or for such consideration as may be agreed upon to the state or to any governmental subdivision, to the United States or to any agency of the federal government, another public corporation or to the Minnesota state armory building commission for public use when authorized by its governing body.

**History:** 1947 c 34 s 1; 1951 c 73 s 1; 1955 c 142 s 1; 1957 c 152 s 1; 1973 c 123 art 5 s 7

**465.036 GIFTS, HOSPITALS.**

Counties or cities, however organized, may accept gifts to aid in building, acquiring, equipping or maintaining public hospitals whether such hospital is maintained by a county or a city, or by any combination thereof.

**History:** 1949 c 152 s 1; 1973 c 123 art 5 s 7

**465.04 ACCEPTANCE OF GIFTS.**

Cities of the second, third, or fourth class, having at any time a gross tax capacity of not more than \$10,000,000, exclusive of money and credits, as officially equalized

by the commissioner of revenue, either under home rule charter or under the laws of this state, in addition to all other powers possessed by them, hereby are authorized and empowered to receive and accept gifts and donations for the use and benefit of such cities and the inhabitants thereof upon terms and conditions to be approved by the governing bodies of such cities; and such cities are authorized to comply with and perform such terms and conditions, which may include payment to the donor or donors of interest on the value of the gift at not exceeding five percent per annum payable annually or semiannually, during the remainder of the natural life or lives of such donor or donors.

**History:** (1663) 1923 c 395 s 1; 1973 c 582 s 3; 1988 c 719 art 5 s 84

#### **465.05 TAX LEVY TO PAY INTEREST.**

When any such city shall so accept such gift or donation the governing body thereof shall have the right to enter such a written contract for the payment of such interest so determined upon, it shall be the duty of the city council annually, at the time other taxes are levied, to levy a tax sufficient to pay such obligation so incurred.

**History:** (1664) 1923 c 395 s 2

- 465.06** [Repealed, 1976 c 44 s 70]
- 465.07** [Repealed, 1976 c 44 s 70]
- 465.08** [Repealed, 1976 c 44 s 70]
- 465.09** [Repealed, 1963 c 798 s 16]
- 465.091** [Repealed, 1963 c 798 s 16]
- 465.10** [Repealed, 1963 c 798 s 16]
- 465.11** [Repealed, 1963 c 798 s 16]
- 465.12** [Repealed, 1963 c 798 s 16]
- 465.121** [Repealed, 1963 c 798 s 16]

#### **465.13 JUDGMENT AGAINST MUNICIPALITY; PAYMENT.**

No execution shall issue on a judgment for the recovery of money against a city, except as hereinafter provided. Upon delivery of a certified copy of the judgment, the treasurer of such municipality shall pay it out of any moneys in or coming in not otherwise appropriated, unless collection thereof be stayed on appeal, always retaining a sufficient sum to pay necessary current expenses; and, if the treasurer fails so to do, the treasurer and bonding agents shall be liable for the amount. In case there be no such treasurer, then, upon delivery of such certified copy and an affidavit of the judgment creditor, the judgment creditor's agent or attorney, showing the amount due, and that the judgment has not been stayed on appeal, the county treasurer shall pay such judgment out of the funds of the municipality in or coming in, taking receipt therefor.

**History:** (1834) RL s 769; 1973 c 123 art 5 s 7; 1986 c 444

#### **465.14 TAX LEVY; EXECUTION.**

When a judgment against a city is unpaid at the time of the annual tax levy, unless the proper officers thereof have otherwise provided sufficient funds to pay the same before the time for collection of such tax levy, they shall levy a tax to pay such judgment and certify the same and the purpose thereof to the county auditor. If the judgment be not paid within 20 days after the time fixed by law for the county treasurer to pay over to the treasurer of the municipality the moneys on hand belonging to it on account of such annual tax levy, execution may issue on such judgment, but only the property of such municipality shall be liable thereon. If there be no officers of the municipality to levy such tax, the judgment creditor may apply to the county auditor, who, upon being satisfied that the judgment has not been paid or stayed, shall levy and extend the tax.

**History:** (1836) RL s 770; 1973 c 123 art 5 s 7; 1986 c 444

**465.15 CITIES MAY ACQUIRE EXEMPT PROPERTY.**

Each city of the first class now or hereafter having a population of 50,000 inhabitants or more, including each such city operating under a charter adopted pursuant to the provisions of the Constitution of the State of Minnesota, article IV, section 36, is hereby authorized and empowered to acquire by purchase, condemnation, or otherwise any right or interest in land either platted or unplatted within the limits of the city, which interest in land consists of a right or privilege in the owner of the land to offset certain amounts against special assessments levied by the governing body, the city council, or the board of park commissioners of such city for park or parkway purposes, or both.

**History:** (1541-1) 1931 c 385 s 1

**465.16 RIGHT OF EMINENT DOMAIN.**

In the event that the chief governing body, city council or board of park commissioners of such city shall exercise such right by condemnation such body may do so under any laws provided for the condemnation of real property or eminent domain or under any provision of the charter of such city granting to such body the right of condemnation or eminent domain; or, it being for the best interests of such city, such chief governing board, city council, or board of park commissioners shall have the power and authority to acquire the rights by purchase, taking into consideration the present worth of such right to exemption and the probability or improbability that such exemptions would ever be used as an offset to future assessments for benefits.

**History:** (1541-2) 1931 c 385 s 2

**465.17 MAY ISSUE BONDS.**

In order to carry out the purpose of sections 465.15 to 465.17 each such city is hereby authorized to issue bonds or certificates of indebtedness to secure funds for the amount necessary to acquire the right and the city council or other chief governing body shall levy annually a tax on all the taxable property of the city sufficient to meet the interest and the principal about to mature on the bond.

**History:** (1541-3) 1931 c 385 s 3

**465.18 STATE'S OWNERSHIP OF BED OF NAVIGABLE RIVER.**

The ownership of the beds and the lands under the waters of all rivers in this state which are navigable for commercial purposes are hereby declared to be and shall be in the state of Minnesota in fee simple, subject only to the regulations made by the Congress of the United States with regard to the public navigation and commerce and the lawful use by the public of the waters while thereon.

**History:** (1349) 1911 c 291 s 1

**465.19 CHANGE OF CHANNEL WITHIN AND AT COST OF CITY; CITY'S OWNERSHIP.**

When any portion of the channel of any river navigable for commercial purposes within the limits of any city in this state is changed by or under the authority of the United States government or any other authority for the improvement of navigation and the cost of such change or any portion thereof is borne by the city within which change is made the old bed of the river or portion thereof abandoned by reason of any such change, shall belong to and become the property in fee simple of the city in which the same is situate without further act or ceremony. The filing and recording in the office of the county recorder of the county in which such city is located, of a copy of this bill together with a plat or map certified by the secretary of defense of the United States or the United States government engineer in charge of the changes of the channel hereinbefore referred to, showing the respective locations of the water line of the old or original bed of the river and such changed location, shall constitute sufficient evidence of title of such city to the old river bed and lands hereinbefore referred to.

# MINNESOTA STATUTES 1988

8717

RIGHTS, POWERS AND DUTIES; MUNICIPALITIES 465.28

Upon the request of any such city the governor and the commissioner of finance shall also execute and deliver to such city a deed of conveyance transferring all of the right, title, and interest of the state of Minnesota in and to such old river bed and lands within the limits of such city, and the lands so reclaimed or acquired may be held, used, or disposed of by such city as the common council shall determine to be for the best interests of such city.

**History:** (1350) 1911 c 291 s 2; 1973 c 492 s 14; 1976 c 2 s 135; 1976 c 181 s 2

## **465.20 APPLICATION.**

Sections 465.18 to 465.20 shall apply to all cities including those now or hereafter governed by a charter adopted pursuant to the Constitution of the state of Minnesota, article IV, section 36.

**History:** (1351) 1911 c 291 s 3

**465.21** [Repealed, 1965 c 670 s 14]

**465.22** [Repealed, 1965 c 670 s 14]

**465.23** [Repealed, 1965 c 670 s 14]

**465.24** [Repealed, 1965 c 670 s 14]

**465.25** [Repealed, 1965 c 670 s 14]

## **465.26 DIVERSION OF UNNAVIGABLE STREAMS; RAISING WATERS OF LAKES.**

Any first class city may, if in the judgment of its city council, the public health or welfare of its citizens will be promoted thereby, divert any unnavigable stream, flowing wholly or partly within the corporate limits, from its natural bed to an artificial channel or to another watercourse. The diversion may take place at any feasible or desirable point within or without the corporate limits, and the new channel may be created within or without or partly within and partly without the corporate limits. For the purpose of controlling and regulating the flow of such stream in its new channel, the city may, by the erecting of dams or other suitable means, raise the waters of any lake or lakes from which the stream may flow, or through which the new channel may flow, and control and regulate the discharge from such lake or lakes, and straighten, enlarge, and make such changes and improvements in the channels as may be necessary for such purposes. Such new channels may, where necessary, cross any highway or railway; in which case suitable bridges shall be provided.

**History:** (1509) 1905 c 18 s 1; 1976 c 44 s 65

## **465.27 ORDINANCE; SURVEY AND MAP.**

The city council shall by ordinance first adopt and file with the city clerk a survey and map showing the point at which it is proposed to divert the stream, the route of the new channel, the sites of dams and other controlling works, the lands proposed to be taken for right of way and for flowage purposes, the levels to which it is proposed to raise and between which it is proposed to maintain the waters of any lake, a profile of the route and of the water surface, the cross-section of the proposed new channel, the enlargement, if any, of any existing channel, the bridges, tunnels, culverts to be built, and in general, the entire extent and scope of the improvement as nearly as may be.

**History:** (1510) 1905 c 18 s 2

## **465.28 LANDS; HOW ACQUIRED.**

The city council may acquire in the name of the city by grant, dedication, purchase, or devise the lands and the rights necessary to carry out such improvements.

**History:** (1511) 1905 c 18 s 3

**465.29 CONDEMNATION; SPECIAL ASSESSMENTS.**

The power of eminent domain and the power to levy special assessments for benefits are hereby delegated to such cities for the purposes of sections 465.26 to 465.48, to acquire the lands and rights needed or any of them, to be exercised as follows.

*History: (1512) 1905 c 18 s 4*

**465.30 ORDINANCE; APPRAISERS.**

The city council shall by ordinance determine and declare as nearly as may be the cost of such improvements, exclusive of damages to property, and appoint five appraisers, who shall be disinterested freeholders and qualified voters of the county, and none of whom shall be residents of the town or ward or wards of the city in which the property so designated is situated, to view the premises and appraise the damages which may be occasioned by the taking of private property or otherwise in making such improvement, and to assess special benefits resulting therefrom. These appraisers shall be notified as soon as practicable by the city clerk to attend, at a time fixed by the clerk, for the purpose of qualifying and entering upon their duties. When a vacancy may occur among these appraisers by neglect or refusal of any of them to act or otherwise, such vacancy shall be filled by the city council.

*History: (1513) 1905 c 18 s 5; 1986 c 444*

**465.31 OATH.**

The appraisers shall be sworn to discharge their duty as appraisers in the matter with impartiality and fidelity; and to make due return of their acts to the city council.

*History: (1514) 1905 c 18 s 6*

**465.32 NOTICE OF MEETING.**

The appraisers shall give notice of their meeting in a manner appropriate to inform the public, which notice shall name the stream to be diverted, the point of diversion, the general course of the new channel and the height to which it is proposed to raise or maintain any lake, the location of proposed bridges, culverts, or tunnels, the estimated cost of construction, and contain a description of the lands designated by the city council to be taken for right of way and for flowage purposes, and give notice that a plan of the improvement has been filed in the office of the city clerk, and that the appraisers will meet at a place and time designated in the notice, and thence proceed to view the premises and appraise the damages for property to be taken, or which may be damaged by the diversion of water or otherwise by such improvement, and to assess benefits in the manner hereinafter specified. If any portion of such stream or of the lands to be taken is outside of the county containing such city, then the notice shall also be given in the outside county.

*History: (1515) 1905 c 18 s 7; 1984 c 543 s 61*

**465.33 MAILING NOTICES.**

A copy of all subsequent notices relating to the proceeding which are required to be published, shall be mailed by the city clerk immediately after the first publication thereof to such persons as shall have appeared in the proceedings and requested in writing that such notices be mailed to them.

*History: (1516) 1905 c 18 s 8*

**465.34 MEETING OF APPRAISERS; DAMAGES AND BENEFITS.**

At the time and place mentioned in the notice, the appraisers shall meet and thence proceed to view the premises, and hear any evidence or proof offered by the parties interested and may adjourn from time to time for the purpose aforesaid. When their view and hearing shall be concluded they shall determine the amount of damages, if any, suffered by each piece or parcel of land affected by the improvement. They shall

# MINNESOTA STATUTES 1988

8719

RIGHTS, POWERS AND DUTIES; MUNICIPALITIES 465.38

determine the amount of special benefits, if any, occurring by reason of diversion of water, drainage, or otherwise, to each piece or parcel of land wherever situate and whether contiguous to the improvement or not. If the damages exceed the benefits to any particular piece, the excess shall be awarded as damages. If the benefits exceed the damages to any particular piece, the difference shall be assessed as benefits, but the total assessment for benefits shall not be greater than the aggregate net award of damages added to the estimated cost of construction; and in every case the benefits assessed upon the several parcels shall be in proportion to the actual benefits received, and no assessment upon any particular piece shall exceed the amount of actual special benefits after deducting the damages, if any.

**History:** (1517) 1905 c 18 s 9

## **465.35 BUILDINGS.**

If there be any buildings standing, in whole or in part, upon any parcel of the land to be taken, the appraisers shall, in such case, determine the amount of damages which should be paid to the owners thereof, in case such building, or so much as may be necessary, should be taken, and shall appraise and determine the amount of damages to be paid such owners in case they shall elect to remove such buildings.

**History:** (1518) 1905 c 18 s 10

## **465.36 DIFFERENT OWNERS OR INTERESTS.**

If the land and buildings belong to different persons or if the land be subject to lease, mortgage, or judgment, or if there be any estate less than an estate in fee, the injury or damage done to such person, or interests, respectively, may be awarded to them separately by the appraisers. Neither such award of the appraisers, nor the confirmation thereof by the city council, shall be deemed to require the payment of such damages to the person or persons named in such award, in case it shall transpire that such persons are not entitled to receive the same.

**History:** (1519) 1905 c 18 s 11

## **465.37 REPORT.**

The appraisers having ascertained and appraised the damages and assessed the benefits, as aforesaid, shall make and file with the city clerk a written report of their action in the premises, embracing a schedule and appraisal of the damages awarded and benefits assessed, with descriptions of the lands, and the names of the owners, if known to them, and a statement of the costs of the proceeding.

**History:** (1520) 1905 c 18 s 12

## **465.38 NOTICE OF APPRAISEMENT; CONFIRMATION OR ANNULMENT.**

Upon such report being filed, the city clerk shall give notice that such appraisal has been returned and that the same will be considered by the city council at a meeting thereof to be named in the notice, which notice shall contain the schedule of damages awarded and benefits assessed and be given in a manner appropriate to inform the public. Any person interested in any building standing in whole or in part upon any land required to be taken by such improvement shall, on or before the time specified for the meeting in such notice, notify the city council in writing of the person's election to remove such building, if the person so elect. The city council, upon the day fixed for the consideration of such report, or at any subsequent meeting to which the same may stand over or be referred, shall have power in their discretion to confirm, revise, or annul the appraisal and assessment, giving due consideration to any objections interposed by parties interested in the manner hereinafter specified; provided that the city council shall not have the power to reduce the amount of any award nor increase any assessment. In case the appraisal and assessment is annulled, the city council may thereupon appoint new appraisers, who shall proceed in like manner as in case of the first appraisal, and upon the coming in of their report, the city council shall

proceed in a like manner and with the same powers as in the case of the first appraisalment.

**History:** (1521) 1905 c 18 s 13; 1984 c 543 s 62; 1986 c 444

#### **465.39 AWARD; APPEAL.**

If not annulled or set aside, such award shall be final and a charge upon the city, for the payment of which the credit of the city shall be pledged. Such assessments shall be and remain a lien and charge upon the respective lands until paid. The award shall be paid to the persons entitled thereto or deposited and set apart in the treasury of the city for the use of the persons entitled thereto within six months after the confirmation of the appraisalment and award. In case any appeal shall be taken from the order confirming the appraisalment and assessment, as hereinafter provided, the time for payment of the awards shall be extended until and including 60 days after the final determination of all appeals taken in the proceedings, and in case of any change in the awards or assessment upon appeal, the city council may, by resolution duly adopted, at any time within 60 days after the determination of all appeals, set aside the entire proceeding. Any awards so set aside shall not be paid, and the proceedings as to the tracts for which the awards are so set aside shall be deemed abandoned. Any awards not so set aside shall be a charge upon the city, for the payment of which the credit of the city shall be pledged. All awards shall bear interest at the rate of six percent per annum from the time of the filing of the original appraisers' report, and all subsequent awards and awards upon appeals shall be made as of the day and date of filing of such original reports.

**History:** (1522) 1905 c 18 s 14

#### **465.40 VESTURE OF TITLE.**

Upon the conclusion of the proceedings and the payment of the awards, the several tracts of land shall be deemed to be taken and appropriated for the purposes of sections 465.26 to 465.48, and the title thereto shall vest in the city. In case the city council shall in any case be unable to determine to whom the damages should in any particular case be paid, or in case of adverse claim in relation thereto, or in case of the legal disability of any person interested, the city council shall, and in any and every case the city council may in its discretion deposit the amount of damages with the district court of the county in which such city is situate, for the use of the parties entitled thereto, and the court shall, upon the application of any person interested, and upon such notice as the court shall prescribe, determine who is entitled to the award, and shall order the same paid accordingly. Any such deposit shall have the same effect as the payment to the proper persons.

**History:** (1523) 1905 c 18 s 15

#### **465.41 REMOVAL OF BUILDINGS.**

In case any owner of buildings, as aforesaid, shall have elected to remove the buildings they shall be removed within 30 days from the confirmation of the report or within such further time as the city council may allow for the purpose and shall be entitled to the payment of the amount of damages awarded in such case in case of removal. When such person shall not have elected to remove such buildings, or shall have neglected (after having elected) to remove the same within the time above specified, such buildings, or so much thereof as may be necessary, upon paying or depositing the damages awarded for such taking in manner aforesaid, may be taken and appropriated, sold, or disposed of as the city council shall elect.

**History:** (1524) 1905 c 18 s 16; 1986 c 444

#### **465.42 APPEAL; OBJECTIONS; NOTICE; RECORD.**

Any person whose property is proposed to be taken or interfered with or assessed under any provisions of sections 465.26 to 465.48, or who claims to be damaged by the



improvement, and who deems that there is any irregularity in the proceedings of the city council, or action of the appraisers, by reason of which the award of the appraisers ought not to be confirmed, or who is dissatisfied with the amount of damages awarded for the taking of, or interference with the person's property, or the assessment thereon, may, at any time before the time specified for the consideration of the award and assessment by the city council, file with the city clerk in writing objections to such confirmation, setting forth therein specifically the particular irregularities complained of, and the particular objection to the award or assessment, and containing a description of the property, affected by such proceedings and the person's interest therein, and if, notwithstanding such objections, the city council shall confirm the award or assessment, such persons so objecting shall have the right to appeal from such order of confirmation of the city council to the district court of the county in which the city is situate within 20 days after such order. Such appeal shall be made by serving a written notice of appeal upon the city clerk, which shall specify the property of the appellant affected by such award or improvement, and refer to the objection filed, as aforesaid, thereupon the city clerk, at the expense of the appellant, shall make out and transmit to the court administrator of the district court a copy of the record of the entire proceedings and of the award of the appraisers as confirmed by the city council, and of the order of the city council confirming the same, and of the objections filed by the appellant, as aforesaid, and of the notice of appeal, all certified by the city clerk to be true copies, within ten days after the taking of such appeal. If more than one appeal be taken in the same proceeding, it shall not be necessary that the city clerk in appeals subsequent to the first shall send up anything but a certified copy of the appellant's objections. There shall be no pleading on any appeal, but the court shall determine in the first instance whether there was in the proceedings any such irregularity or omission of duty prejudicial to the appellant and specified in the written objection that as to that appellant the award or assessment of the appraisers ought not to stand, and whether the appraisers had jurisdiction to take action in the premises.

**History:** (1525) 1905 c 18 s 17; 1986 c 444; 1Sp1986 c 3 art 1 s 82

#### **465.43 HEARING; APPRAISERS; AWARD; APPEAL.**

The case may be brought on for hearing on eight days' notice, at any general or special term of the court, and the judgment of the court shall be to confirm or annul the proceedings, only so far as the proceedings affect the property of the appellant proposed to be taken or damaged or assessed, and described in the written objection. In case the amount of damages or benefits assessed is complained of by the appellant, the court shall, if the proceedings be confirmed in other respects, appoint three disinterested freeholders, residents of the county, appraisers, to reappraise the damages, and reassess benefits as to the property of appellant. The parties to the appeal shall be heard by the court upon the appointment of the appraisers. The court shall fix the time and place of meeting of the appraisers. They shall be sworn to the faithful discharge of their duties as appraisers, and shall proceed to view the premises and to hear the parties interested, with their allegations and proofs pertinent to the question of the amount of damages or benefits, and proceed in all other material respects as are provided in sections 465.26 to 465.48 for the government of appraisers appointed by the city council. They shall, after the hearing and view of the premises, report to the court their award of damages and assessments of benefits in respect to the property of the appellant. The appellant shall, within five days of notice of filing the award, file a written election to remove the buildings if the appellant so elect. The election shall not affect the appellant's right to a review. The award shall be final unless set aside by the court. The motion to set aside shall be made within 15 days. If the report is set aside, the court may, in its discretion, recommit it to the same appraisers, or appoint new appraisers, as it deems best. The court shall allow to the appraisers a reasonable compensation for their services, and make such awards of costs on the appeal, including the compensation of appraisers, as it deems just in the premises, and enforce them by execution. If the court is of the opinion that the appeal was frivolous or vexatious, it may adjudge double costs against the appellant. An appeal may be taken to the court of appeals from any final order of the district court in the proceedings.

**History:** (1526) 1905 c 18 s 18; 1983 c 247 s 159; 1986 c 444

## **465.44 TIME OF PAYMENT.**

In case of any appeal the time for making payment of awards shall be extended as to all tracts embraced in the proceeding to 60 days after final determination of all appeals.

*History: (1527) 1905 c 18 s 19*

## **465.45 NOTICE OF PENDENCY; PERSONS AFFECTED.**

The notice prescribed in section 465.32 shall be sufficient to charge all persons whose rights or interests may be affected by the diversion of such waters, but whose lands are not otherwise taken, with notice of the pendency of the proceeding, and all such persons may present to the appraisers evidence of the damages which they will suffer, and the appraisers shall determine and award such damages as they may find, particularly specifying in their award the location and the nature of such damages, and all persons failing to present their claims for damages arising from the diversion of waters, shall be concluded by the proceeding hereunder, whether any award of damages is made to them or not, and shall be barred from claiming damages afterwards in any other form of action or proceeding.

*History: (1528) 1905 c 18 s 20*

## **465.46 AWARD AND ASSESSMENT, HOW CERTIFIED; ASSESSMENT, HOW ENFORCED.**

Upon the final determination of all appeals in such proceeding, the city clerk shall transmit to the auditor of the county or counties in which the respective lands lie a copy duly certified by the clerk of the awards and assessment of the appraisers as confirmed by the city council; and the court administrator of the district court shall, in like manner, certify the award and assessment as finally made upon all appeals; and the county auditors shall include such assessments of benefits against each tract of land assessed, with and as a part of the taxes upon such respective tracts of land in the next annual list of taxes for general, state, county and other purposes, and the same proceedings shall be had for the collection and enforcement thereof, as for such general taxes, including like penalties in case of nonpayment, and including also proceedings for the collection and enforcement of delinquent taxes. When any of such assessments are collected, they shall be credited to the city conducting such proceedings, and paid over and accounted for in like manner as other taxes.

*History: (1529) 1905 c 18 s 21; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

## **465.47 DUTY OF CITY.**

It shall be the duty of such city to proceed with all reasonable dispatch to complete such improvements, unless the proceedings are set aside by the city council as provided in sections 465.26 to 465.46.

*History: (1530) 1905 c 18 s 22*

## **465.48 POWERS AND DUTIES OF COUNCIL; PENALTIES.**

The city council shall have power and it shall be its duty after the construction of such works to maintain the same and to prevent injury or obstruction to the channel or works and contamination of the waters. For such purposes the city council may enact suitable ordinances and prescribe penalties for their violation, not exceeding a fine of \$100 for each offense or confinement in the city workhouse not exceeding 90 days. The municipal court of the city shall have jurisdiction of such offenses.

*History: (1531) 1905 c 18 s 23*

## **465.49 PARKING LAKE SHORES; DONATIONS; CONTRACTS FOR WATER AND ICE.**

All cities of the fourth class and the city councils of the same, in addition to all

powers now possessed by such cities, shall have the power to dredge lakes wholly or partly within the corporate limits of such cities, to park the shores thereof, maintain a water level in such lakes, and expend money therefor.

Such cities are given the right to accept donations from any person, firm, or corporation to aid in defraying such expenses and such cities and the city councils thereof shall have the power to make contracts with any person, firm, or corporation for the taking of water and ice from such lake upon such terms and conditions as may be agreed upon between such city council and the person, firm, or corporation acquiring the right to the use of the water and ice.

**History:** (1746) 1913 c 331 s 1

## **465.50 OBSERVANCE OF MEMORIAL DAY.**

The council of each and every city in the state, in addition to all other powers now possessed by it, is hereby empowered and authorized to set apart, appropriate, and expend, or cause to be expended, in such manner as it may deem best, from any funds in the city treasury available therefor, an amount not to exceed the sum of \$300 annually for each 75,000 of population of such city for the purpose of aiding in the appropriate observance of Memorial Day on the last Monday in May of each year and in the annual commemoration of the noble and valiant deeds of the nation's soldier dead.

**History:** (1318) 1909 c 365 s 1; 1923 c 375; 1971 c 25 s 81

**465.51** [Repealed, 1976 c 44 s 70]

**465.52** [Repealed, 1976 c 44 s 70]

**465.53** [Repealed, 1987 c 291 s 244]

## **465.54 MAY PAY EXPENSES FROM GENERAL FUND OF STATUTORY CITY.**

The council of any statutory city may pay from the general fund of the municipality, for the purposes of section 469.186, expenses incurred by the governing officers in the performance of their official duties. Trips for lobbying purposes or trips to meetings or conventions not in connection with specific municipal projects pending before the officer making the trip are not authorized for payment under this section.

All expenditures for the purposes of this section shall be within the statutory limits upon tax levies in the statutory city.

**History:** (1192-4, 1192-5) 1933 c 60 s 4,5; 1973 c 123 art 5 s 7; 1977 c 50 s 2; 1987 c 291 s 223

**465.55** [Repealed, 1987 c 291 s 244]

**465.56** [Repealed, 1987 c 291 s 244]

**NOTE:** The 1987 amendment to subdivision 1 by Laws 1987, chapter 216, section 2, is now incorporated into section 469.189, pursuant to Laws 1987, chapter 291, section 243.

**465.57** [Repealed, 1976 c 44 s 70]

## **465.58 LEAGUE OF CITIES.**

**Subdivision 1.** Any city of this state, whether organized under the general laws or a special or home rule charter, or any town having the powers of a statutory city under section 368.01, may appropriate through its council or town board, out of its general fund, money to pay the annual dues in the League of Minnesota Cities and the actual and necessary expenses of such delegates as such council or town board may designate to attend meetings of the league.

**Subd. 2.** [Repealed, 1957 c 935 s 27]

**History:** (1933-4) 1923 c 211 s 1; 1951 c 259 s 1; 1961 c 49 s 1; 1973 c 123 art 5 s 7; 1977 c 347 s 54

- 465.59 [Repealed, 1976 c 44 s 76]
- 465.60 [Renumbered 413.135]
- 465.61 [Repealed, 1976 c 44 s 70]
- 465.62 [Repealed, 1963 c 798 s 16]
- 465.63 [Repealed, 1976 c 44 s 70]
- 465.64 MS 1967 [Repealed, 1976 c 44 s 70]
- 465.65 MS 1967 [Repealed, 1976 c 44 s 70]
- 465.66 MS 1967 [Repealed, 1976 c 44 s 70]
- 465.67 MS 1967 [Repealed, 1976 c 44 s 70]
- 465.68 MS 1967 [Repealed, 1976 c 44 s 70]

**465.681 CITIES OF FIRST CLASS, FLOOD CONTROL.**

Subdivision 1. **Flood control, bonds, indebtedness.** Any city of the first class is authorized and empowered to borrow a sum not to exceed \$1,100,000 for the purpose of matching funds allocated by the United States Government for the purpose of flood control in such city, and for that purpose to issue and sell, from time to time, and without submitting the question of the issuance of the same to a vote of the people, the bonds of said city in the sum and amount of \$1,100,000, or such part thereof as shall be deemed necessary; and to secure the payment of such bonds by pledging the full faith and credit of such city therefor. Such bonds shall be in such form and bear interest at such rate as the council of such city may prescribe, and shall be sold by the council of such city to the highest bidder therefor after at least two weeks published notice of the time and place for receiving bids. Said bonds shall be issued to mature serially, the first installment of which shall become due and payable in not more than three years and the last of which shall become due and payable in not more than 30 years from the date of their issue. The proceeds received from the sale of such bonds shall be deposited by the city in a fund to be designated as "Flood Control Project Fund" and the moneys shall be disbursed therefrom for the purpose aforesaid in the same manner as other funds of the city are disbursed, but only for the purpose herein expressed. The amount of such bonds from time to time outstanding shall not be considered in determining the net indebtedness of said city for the purpose of borrowing money or other purposes and the amount of such bonds or certificates of indebtedness shall be excluded in determining the debt limit of the city.

Subd. 2. **Receipts and expenditures.** The receipt and expenditure of any moneys hereunder shall not be included within the definition of any limitation imposed on taxing or spending by the charter of such city.

**History:** 1957 c 685 s 1,2; 1961 c 495 s 1,2

**465.69 TRAINING OF SCHOOL SAFETY PATROL MEMBERS.**

Any statutory city of this state may provide for the training of members of the school safety patrol at any authorized school patrol camp located in this state and may pay the expense necessarily incurred in providing such training, out of any funds available for said purpose.

**History:** 1955 c 316 s 1; 1973 c 123 art 4 s 11

**465.70 TELEVISION SIGNAL DISTRIBUTION SYSTEMS; HOME RULE CHARTER THIRD AND FOURTH CLASS CITIES AND STATUTORY CITIES.**

Any statutory city or any home rule charter city of the third or fourth class more than 50 miles from the boundaries of a city of the first class, or any two or more of such cities acting under an agreement accepted by the governing body of each such participating municipality, may own, construct, acquire, purchase, maintain and operate within its corporate limits a television signal distribution system for the purpose of receiving, transmitting, and distributing television impulses and television energy, including audio signals and transient visual images, to the inhabitants of the city. This

system shall be considered a public utility. The city may erect, construct, operate, repair, and maintain in, upon, along, over, across, through and under its streets, alleys, highways and public grounds, poles, cross-arms, cables, wires, guy-wires, stubs, anchors, towers, antennas, pipes, connections, and other appliances, fixtures, and equipment necessary, expedient, or useful in connection therewith. It may prescribe reasonable rates and charges for the use of these facilities and the services furnished. It may prescribe, make and maintain rules for the operation thereof and do all things necessary and incidental to accomplish such purpose. Subject to and in accordance with chapter 475, the city may issue obligations in a maximum amount of \$100,000 for acquisition and betterment of the system.

**History:** 1957 c 100 s 1; 1959 c 257 s 1; 1973 c 123 art 5 s 7; 1976 c 44 s 66

#### **465.71 INSTALLMENT AND LEASE PURCHASES; CITIES; COUNTIES; SCHOOL DISTRICTS.**

A home rule charter city, statutory city, county, town, or school district may purchase real or personal property under an installment contract, or lease personal property with an option to purchase under a lease purchase agreement, by which contract or agreement title is retained by the seller or vendor or assigned to a third party as security for the purchase price, including interest, if any, but such purchases are subject to statutory and charter provisions applicable to the purchase of real or personal property. For purposes of the bid requirements contained in section 471.345, "the amount of the contract" shall include the total of all lease payments for the entire term of the lease under a lease-purchase agreement. The obligation created by a lease purchase agreement shall not be included in the calculation of net debt for purposes of section 475.53, and shall not constitute debt under any other statutory provision. No election shall be required in connection with the execution of a lease purchase agreement authorized by this section. The city, county, town, or school district shall have the right to terminate a lease purchase agreement at the end of any fiscal year during its term.

**History:** 1965 c 266 s 1; 1976 c 44 s 67; 1979 c 3 s 1; 1982 c 523 art 15 s 4; 1988 c 639 s 6

#### **465.72 SEVERANCE PAY.**

**Subdivision 1. Payment; limits.** Except as may otherwise be provided in Laws 1959, chapter 690, as amended, a county, city, township, school district or other governmental subdivision may pay severance pay to its employees and adopt rules for the payment of severance pay to an employee who leaves employment. Severance pay does not include compensation for accumulated sick leave or other payments in the form of periodic contributions by an employer toward premiums for group insurance policies for a former employee. The severance pay must be excluded from retirement deductions and from any calculations in retirement benefits. Severance pay must be paid in a manner mutually agreeable to the employee and employer over a period not to exceed five years from retirement or termination of employment. If a retired or terminated employee dies before all or a portion of the severance pay has been disbursed, that balance due must be paid to a named beneficiary or, lacking one, to the deceased's estate. Severance pay provided for an employee leaving employment may not exceed an amount equivalent to one year of pay.

**Subd. 2.** [Repealed, 1988 c 605 s 14]

**History:** 1973 c 123 art 5 s 7; 1973 c 298 s 1; 1979 c 334 art 6 s 24; 1980 c 614 s 151; 1Sp1981 c 4 art 2 s 37; 1986 c 455 s 91; 1988 c 605 s 10

**NOTE:** Subdivision 2 was also amended by Laws 1986, chapters 399, article 1, section 30, and 411, section 3. The amendments were identical to those in Laws 1986, chapter 455, section 91. However, references to "the effective date of this act" could not be reconciled since the effective dates for the acts were all different.

#### **465.721 FUNDING.**

No county, city, township, or other governmental subdivision shall implement a

plan for payment of severance pay pursuant to section 465.72 until a plan providing for full funding has been developed and approved by the governing body. This section does not apply to school districts.

**History:** 1980 c 600 s 9; 1984 c 463 art 7 s 21

#### **465.73 TOWN HALLS; FIRE HALLS OR EQUIPMENT; DIRECT LOANS TO POLITICAL SUBDIVISIONS.**

For purposes of constructing or acquiring town halls, fire halls or fire equipment any city, county or town may borrow up to \$100,000 directly from the Farmers Home Administration on a note secured by a mortgage on the real or personal property purchased with the borrowed funds. The city, county or town may assign revenues from the town halls, fire department or fire hall or any other available funds to the Farmers Home Administration to repay the loan. When the full faith and credit of the city, county or town is irrevocably pledged for the redemption of the note and mortgage, the taxes levied to pay principal and interest thereon shall be considered special levies within the meaning of section 275.50, subdivision 5, clause (j). The amount of the obligation shall be included when computing the net debt of the city or county but not the town. Unless expressly provided otherwise in the mortgage instrument, when a city, county or town borrows on a mortgage and fails to repay all or a part of the mortgage, the agency is confined to the remedy of recovery of the property purchased with the borrowed funds. An election shall be required to authorize the note and mortgage unless the agency is confined to the remedy of recovery of the property.

**History:** 1976 c 140 s 1; 1977 c 210 s 1; 1978 c 476 s 1

#### **465.74 AUTHORIZATION TO OPERATE DISTRICT HEATING SYSTEMS.**

**Subdivision 1. Cities of the first class.** Any city operating or authorized to operate a public utility pursuant to chapter 452 or its charter is authorized to acquire, construct, own, and operate a municipal district heating system pursuant to the provisions of that chapter or its charter. Acquisition or construction of a municipal district heating system shall not be subject to the election requirement of sections 452.11 and 452.12, or city charter provision, but must be approved by a three-fifths vote of the city's council or other governing body. Loans obtained by a municipality pursuant to section 116J.36 are not subject to the limitations on the amount of money which may be borrowed upon a pledge of the city's full faith and credit or the election requirements for general obligation borrowing, contained in section 452.08.

**Subd. 1a. Cities with over 50,000 inhabitants.** A city with over 50,000 inhabitants that is not a city of the first class is authorized to acquire, construct, improve, and operate a district heating system under the same terms and conditions as a city of the first class except as provided herein. Acquisition or construction and financing of a municipal district heating system is not subject to the election requirements of sections 452.11 and 452.12, however, a resolution for the acquisition or construction and financing must be approved by a two-thirds vote of the governing body of the city.

**Subd. 2. Cities of the second, third, and fourth class.** A home rule or statutory city of the second, third, or fourth class may, pursuant to sections 412.331 to 412.391, or chapter 455 or its charter acquire, construct, own, and operate a municipal district heating system.

**Subd. 3. Extension of service outside city.** A municipal district heating system, operating pursuant to this section, may sell energy to customers located outside of the municipality.

**Subd. 4. Net debt limits.** The loan obligations or debt incurred by a political subdivision pursuant to section 116J.36 or 475.525 shall not be considered as a part of its indebtedness under the provisions of its governing charter or of any law of this state fixing a limit of indebtedness.

**Subd. 5. District heating facilities.** Notwithstanding any other law, general or special, or the provisions of any home rule charter city to the contrary, the governing

body of a municipality may by ordinance grant a district heating franchise for a term not to exceed 31 years and by resolution or ordinance secure any obligations issued by the municipality for a district heating system with a mortgage or indenture of trust coextensive with the term of the obligations.

**Subd. 6. Definition.** For the purposes of this section, and chapters 474 and 475, "district heating system" means any existing or proposed facility for (1) the production, through cogeneration or otherwise, of hot water or steam to be used for district heating, or (2) the transmission and distribution of hot water or steam for district heating either directly to heating consumers or to another facility or facilities for transmission and distribution, or (3) any part or combination of the foregoing facilities.

In keeping with the public purpose of section 116J.36, subdivision 1, to encourage state and local leadership and aid in providing available and economical district heating service, the definition of "district heating system" under this section should be broadly construed to allow municipal government sufficient flexibility and authority to evaluate and undertake such policies and projects as will most efficiently and economically encourage local expansion of district heating service.

**Subd. 7. Port authorities, ownership and operation of district heating systems.** A port authority organized pursuant to sections 469.048 to 469.068 or a special law may acquire, own, construct, and operate a district heating system or systems to provide heating and cooling services and other energy services within the statutory or home rule charter city within which it is created. The authority may, in conjunction with a district heating system, acquire, own, construct, and operate an energy management and control system to monitor and control users' energy demand within the city as a related ancillary function of the district heating system. The authority may, in conjunction with a district heating system, acquire, own, construct, and operate ancillary services related to an energy management and control system including, but not limited to, sensing and monitoring services for supervision of fire and life safety systems and building security systems within the city.

This section shall be effective for a port authority only after adoption of an ordinance or resolution by the board of the port authority and by the governing body of the city stating their intention to exercise the authority allowed by this section.

A port authority may, with approval of the city, lease part or all of the district heating system or contract with respect to part or all of the district heating system, with any person, corporation, association, or public utility company for the purpose of constructing, improving, operating, or maintaining the district heating system.

**Subd. 8. Management of a district heating system by a port authority.** A statutory or home rule charter city within which a port authority has been created may delegate to the port authority some or all powers and responsibilities for the management and operation of a district heating system.

**Subd. 9. Operation by a county.** A statutory or home rule charter city may contract with a county to operate a district heating system for the provision of district heating services within some or all of the city.

**History:** 1981 c 334 s 6; 1981 c 356 s 248; 1982 c 561 s 12; 1984 c 449 s 1-4; 1987 c 291 s 224

#### **465.75 REGULATION OF VEHICLE TOWERS LIMITED.**

**Subdivision 1. Definitions.** For the purposes of this section, the following terms have the meanings given them:

(a) "Vehicle tower" means a person engaged in the business of towing or recovering vehicles by means of a crane, hoist, tow bar, tow line, or dolly for the purpose of moving or transporting wrecked, damaged, disabled, replacement, or abandoned vehicles; and

(b) "Municipality" means a statutory or home rule charter city or a town.

**Subd. 2. Request by owner.** No municipality may prohibit the operation within its boundaries of a vehicle tower who is not licensed by that municipality and who is

responding to a service request from a person who is the owner or operator or the agent of the owner or operator of the motor vehicle for which vehicle towing service is requested.

**Subd. 3. Private property.** No vehicle tower may remove a motor vehicle by towing, carrying, hauling or pushing from private property except at the request of a person who is the owner or operator or the agent of the owner or operator of the vehicle, or the owner or agent of the owner of the private property.

**History:** 1983 c 115 s 1

**465.76 LEGAL COUNSEL; REIMBURSEMENT.**

If reimbursement is requested by the officer or employee, the governing body of a home rule charter or statutory city or county may, after consultation with its legal counsel, reimburse a city or county officer or employee for any costs and reasonable attorney's fees incurred by the person to defend charges of a criminal nature brought against the person that arose out of the reasonable and lawful performance of duties for the city or county, provided if less than a quorum of the governing body is disinterested, that such reimbursement shall be approved by a judge of the district court.

**History:** 1984 c 650 s 1

**465.77 REGULATION OF DRILLING TO PROTECT MINED UNDERGROUND SPACE DEVELOPMENT.**

A home rule charter city or statutory city may regulate drilling for the purposes and in the manner provided in section 469.141.

**History:** 1985 c 194 s 25; 1987 c 291 s 225